

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of)	
the License to Conduct Gambling Activities of:)	NO. CR 2013-00770
)	NOTICE OF ADMINISTRATIVE
Kenny B. Gipson)	CHARGES AND OPPORTUNITY FOR
Seattle, Washington,)	AN ADJUDICATIVE PROCEEDING
)	
Licensee.)	

I.

The Washington State Gambling Commission issued Kenny B. Gipson the following license:

Number 68-31571, authorizing Card Room Employee activity.

The license expires on December 19, 2013, and was issued subject to Mr. Gipson's compliance with state gambling laws and rules.

II.

David Trujillo, Interim Director of the Washington State Gambling Commission, charges the licensee with the following violations of Chapter 9.46 RCW, and WAC Title 230.

SUMMARY:

Kenny Gipson failed to disclose all of his criminal history when he applied for a public card room employee license on December 20, 2012.

FACTS:

1) On December 31, 2012, a Washington State Gambling Commission Special Agent (agent) was assigned to Mr. Gipson's file for a post-licensing investigation. As part of the investigation, the agent reviewed Mr. Gipson's licensing file. The agent saw that Commission staff received his license application on December 20, 2012. As part of the application process, applicants are required to disclose their criminal history. Mr. Gipson marked the "no" box, indicating that he did not have any criminal history.

2) As part of the licensing process, each applicant is run through the Judicial Information System (JIS) for Washington State Courts. As Mr. Gipson's criminal history was from federal court, no disqualifying criminal history was found. Had Mr. Gipson disclosed his criminal history, Commission staff would have forwarded his file to an agent for further review. Since Mr. Gipson did not disclose any criminal history and his JIS report was immaterial, a license was issued.

3) During the post-licensing investigation, the agent discovered Mr. Gipson failed to disclose his 1991 Federal Charge. Specifically, the agent's information indicated Mr. Gipson was sentenced to 168 months and five years of supervised release beginning in January 1991 for Distribution of Cocaine.

4) On January 7, 2013, the agent sent a letter to Mr. Gipson and his employer informing them that he had failed to fully disclose his criminal history and that he needed to provide certified court documents for this case by January 28, 2013.

5) On January 9, 2013, Mr. Gipson called the agent and said he didn't disclose this charge because he thought they wouldn't show up after seven years. Mr. Gipson became agitated when the agent questioned him about his criminal history from 1991, stating that was a long time ago. He said he was 18 and now he is 41. He told the agent he had originally been charged with two counts; one for possession and one for distribution. He said that he pled guilty to one count and only served eight years. The other count was dismissed. The agent told him he still needed to provide the court documents requested in the letter.

6) On January 17, 2013, Mr. Gipson left the agent a message stating he should be getting the documents tomorrow.

7) The agent still had not received the documents by January 28, 2013, so the agent called Mr. Gipson and left a message requesting he return the call. Mr. Gipson called on January 30, 2013, and left a message. On February 6, 2013, the agent called Mr. Gipson again and was unable to leave a message. However, Mr. Gipson did not return the call so the agent called his employer on February 11, 2013, to find out when Mr. Gipson worked.

8) On February 13, 2013, the agent called Mr. Gipson at work. He told the agent that he didn't have the money to get the documents, but he would get them the following day, which was pay day. He also agreed to call and leave a message confirming he had sent the court documents.

9) Mr. Gipson never called or sent the requested documents. On February 20, 2013, the agent called Mr. Gipson's employer and informed her that he had still not provided the information requested. On February 21, 2013, the agent received an e-mail from his employer stating that Mr. Gipson told her that, "he doesn't have any money and certainly none to spend on documents and he ain't getting them."

10) On March 27, 2013, the agent received the documents after receiving them from the court. The Indictment had two charges:

- Court one was that on March 7, 1990, Mr. Gipson and another person knowingly and intentionally conspired to distribute in excess of fifty (50) grams of a mixture or substance containing cocaine base in violation of Title 21, United States Code, Sections 46 and 841(b)(1)(A.)

- Count two was that Mr. Gipson did knowingly and intentionally possess with intent to distribute in excess of 50 grams of a mixture or substance containing cocaine base and that this charge was committed in furtherance of the conspiracy charged in Count one of the indictment.

12) In the Plea Agreement dated June 26, 1990, Mr. Gipson agreed to enter a plea of guilty on Count two of the Indictment, with the maximum penalty to be up to ten years in prison, a fine of four million dollars, and a term of supervised release of at least five years. The Plea Agreement further states that the United States agreed to the low range of the appropriate sentencing range if Mr. Gipson substantially assisted the government in another prosecution.

13) The Judgment and Commitment, dated January 28, 1991, found Mr. Gipson was guilty as charged. He was convicted and sentenced to 168 months in prison and five years of supervised release after his confinement. However, as part of the application process, applicants are required to disclose their criminal history. Mr. Gipson marked the "no" box, indicating that he did not have any criminal history.

14) Despite his conviction, Mr. Gipson did not disclose this to Commission staff. The application gave the following directions:

"Have you ever:

- a) Forfeited bail or paid a fine over \$25 (incl. traffic fines)?
- b) Been arrested?
- c) Been charged with a crime?
- d) Been convicted?
- e) Been jailed?
- f) Been placed on probation?

You must answer "yes" if any of the above have occurred, even if charges were dismissed, deferred or changed. Explain each charge fully below and attach additional sheets as needed. False or incomplete information may result in denial, suspension, or revocation of a license. You must include information as a juvenile if you are applying for a Gambling License." Mr. Gipson marked the "no" box indicating that he did not have any criminal history.

In addition to the criminal history statement, applicants are also required to read and sign the following Oath of Applicant:

"I declare under penalty of perjury, under the laws of the State of Washington, that all information provided on this application is true and complete to the best of my knowledge. I understand that untruthful, misleading, or incomplete answers whether through misrepresentation, concealment, inadvertence, or mistake, are cause for denial of my initial application or revocation of any gambling license(s) currently held and will be disclosed to my employer..."

On December 10, 2012, Mr. Gipson signed the oath.

VIOLATIONS:

1) RCW 9.46.075 Denial, suspension, or revocation of license, application, or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or certified employee, or any person with any interest therein:

(The following subsections apply.)

- (1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;
- (3) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;
- (4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude;
- (7) Makes a misrepresentation of, or fails to disclose, a material fact to the commission;
- (8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter.

2) WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, certified employee, or anyone holding a substantial interest in the applicant's or certified employee's business or organization:

(The following subsections apply.)

- (1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075;
- (3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level;
- (7) Fails to provide us with any information required under commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us; or
- (8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e)

Associations.

3) RCW 9.46.170 False or misleading entries or statements, refusal to produce records.

Whoever, in any application for a license or in any book or record required to be maintained by the commission or in any report required to be submitted to the commission, shall make any false or misleading statement, or make any false or misleading entry or willfully fail to maintain or make any entry required to be maintained or made, or who willfully refuses to produce for inspection by the commission, or its designee, any book, record, or document required to be maintained or made by federal or state law, shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

4) WAC 230-03-050 Additional information required from applicants for licensing.

(The following subsection applies.)

(2) Applicants must also give us any other information we request within thirty days of the request or within any other time frame we provide.

5) RCW 9.46.153 Applicants and licensees — Responsibilities and duties — Waiver of liability — Investigation statement as privileged.

(The following subsections apply.)

(1) It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

(4) All applicants, licensees, persons who are operators or directors thereof and persons who otherwise have a substantial interest therein shall have the continuing duty to provide any assistance or information required by the commission and to investigations conducted by the commission. If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant, licensee, officer, director thereof, or person with a substantial interest therein, refuses to comply, the applicant or licensee may be denied or revoked by the commission.

On December 20, 2012, Kenny Gipson failed to disclose all of his criminal history when he applied for a public card room employee license, in violation of RCW 9.46.170; he has a 1991 conviction of Distribution of Cocaine. Mr. Gipson was contacted via letter and phone and was told he needed to provide certified court documents but he failed to do so, in violation of WAC 230-03-050(2). Mr. Gipson has failed to show that he qualifies to hold a license in violation of RCW 9.46.153. As a result, there are grounds to revoke Kenny Gipson's license based on RCW 9.46.07 5(1), (3), (4), (7), and (8) and WAC 230-03-085(1), (3), (7), and (8).

///

III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

The licensee will have the opportunity to have a hearing on the alleged violations. In order to have a hearing, the enclosed REQUEST FOR HEARING must be completed in full by the licensee or representative and returned to the Gambling Commission within **23 days** from the date of the mailing of this notice.

Based on RCW 34.05.440, FAILURE TO RETURN THIS DOCUMENT WILL RESULT IN THE ENTRY OF A DEFAULT ORDER FOR REVOCATION OF YOUR LICENSE.

STATE OF WASHINGTON)

) ss.

COUNTY OF THURSTON)

David Trujillo being first duly sworn on oath, deposes and says: He has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents, and believes the same to be true, and that he is the duly appointed and qualified Interim Director of the Washington State Gambling Commission and in that capacity has executed these Charges.

David Trujillo

DAVID TRUJILLO, INTERIM DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 29 day of May, 2013.

Maureen Pretell

NOTARY PUBLIC in and for the State of

Washington residing at Thurston County
My Commission expires on December 2, 2015

STATE OF WASHINGTON)

COUNTY OF THURSTON)

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, property addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 30 day of May, 2013

Maureen Pretell

